

Richard A. De Liberty (Bar No. 203754)
Kohut & Kohut LLP
3554 Round Barn Boulevard, Suite 204
Santa Rosa, California 95403
tel.: (707) 573-3100
fax: (707) 573-3101
e-mail: richard@kohutlaw.com

Attorneys for Defendant
NEW CINGULAR WIRELESS SERVICES, INC.¹

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CHERRY LEVIN,

Plaintiff,

v.

GC SERVICES, LP, et al.,

Defendants.

No. 07-CV-6508-JSW

Hearing: March 28, 2008, 9:00 a.m

**NOTICE REGARDING HEARING ON
MOTION BY DEFENDANT
CINGULAR TO DISMISS FOR
FAILURE TO STATE A CLAIM OR,
ALTERNATIVELY, FOR A
STAY PENDING ARBITRATION**

Richard A. De Liberty declares:

1. I am of counsel to Kohut & Kohut LLP, attorneys for Defendant New Cingular Wireless Services, Inc. (“Cingular”).

2. I am making this declaration to seek to postpone the hearing on Cingular’s motion to dismiss, currently set for hearing tomorrow, March 28, 2008. I am doing this at the request of Plaintiff, Cherry Levin. The reasons for this request and for making it this way are explained below.

3. I spoke to Ms. Levin by telephone early yesterday, March 26. She stated to me that she would be unable to attend the hearing on Cingular’s motion on March 28 because she was travelling to Louisiana. She would also be in Louisiana on April 4, the date of the case management conference. I

¹ The Complaint mistakenly names New Cingular Wireless Services, Inc., as “Cingular Wireless Corp.”

1 agreed to stipulate that the hearing and conference both be moved to May 23 or another available date.
 2 Because of the nearness of the hearing on Cingular's motion, I suggested that I file the stipulation, even
 3 though Ms. Levin was requesting the change, because I could file using ECF, which might speed up the
 4 whole process. (Ms. Levin is appearing pro se, and not registered for ECF.) I stated, however, that Ms.
 5 Levin would need to contact the attorney for Defendant Professional Recovery Systems, Inc., Samuel
 6 Tong, to see if he would agree to change the case management conference and, if so, what dates he was
 7 available. She agreed to do so.

8 4. At 5:42 p.m yesterday, Ms. Levin called me, and asked if the hearing date had been
 9 changed. I stated that it had not, because I had not heard back from her about Mr. Tong's agreement to
 10 the stipulation or availability. She stated that she had contacted his office, but not heard back from him. I
 11 stated that without Mr. Tong we could only stipulate to change the hearing on Cingular's motion. I
 12 offered to prepare such a stipulation this morning, but Ms. Levin stated that her flight to Louisiana was
 13 leaving at six o'clock this morning. As a result, she would not be available to review or sign a
 14 stipulation. I agreed to notify the Court that Ms. Levin would not be able to appear on March 28, that
 15 she had requested to move the hearing to May 23, and that Cingular had no objection to that request.

16 I declare under penalty of perjury under the laws of the State of California that the foregoing is
 17 true and correct.

18 DATED: March 27, 2008

19 KOHUT & KOHUT LLP

20 /s/ Richard A. De Liberty

21 Richard A. De Liberty
 22 Attorneys for Defendant
 23 New Cingular Wireless Services, Inc.

24 The Court HEREBY CONTINUES the hearing on the pending motion to dismiss and the case
 25 management conference to May 23, 2008. The case management conference will be held at 9:00 a.m.
 26 following the hearing on the motion to dismiss.

27 Dated: March 27, 2008

